

**PUBLIC NOTICE INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PP04-329, A-18 Pond Management Plan. The project includes operation of A-18 pond, including discharge of waters and circulation of bay water in A-18 pond. The A-18 pond is owned by Cargill and has been purchased by the City of San Jose. As a condition of the sale, the City and Cargill propose an initial release of brines within the pond to Artesian Slough (Initial Release), followed by circulation of bay water through the pond in sufficient volume to maintain discharge salinities near bay water salinity (Continuous Circulation). It is expected that the initial release would occur over approximately three months while salinities drop and bay water is circulated through the pond, after which the pond would be operated for continuous circulation. The pond would be operated to limit salinity discharge levels to a maximum salinity of 44 ppt. The proposed pond operation is based on modeling data and may be modified by adaptive management based on results of wildlife and water quality monitoring data. The A-18 salt pond is located in the South San Francisco Bay Estuary in the City of San Jose, south of Coyote Slough and east of Artesian Slough. (City of San Jose, Owner, Cargill Salt, Project Sponsor). Council District: 4

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **January 10, 2005**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **December 10, 2004** and ends on **January 10, 2005**.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Alviso Branch Library 5050 North First Street, San José, CA 95002 San Jose, and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Akoni Daniels** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: December 10, 2004

Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: A-18 Pond Management Plan

PROJECT FILE NUMBER: PP04-329

PROJECT DESCRIPTION: The project includes operation of A-18 pond, including discharge of waters and circulation of bay water in A-18 pond. The A-18 pond is owned by Cargill and has been purchased by the City of San Jose. As a condition of the sale, the City and Cargill propose an initial release of brines within the pond to Artesian Slough (Initial Release), followed by circulation of bay water through the pond in sufficient volume to maintain discharge salinities near bay water salinity (Continuous Circulation). It is expected that the initial release would occur over approximately three months while salinities drop and bay water is circulated through the pond, after which the pond would be operated for continuous circulation. The pond would be operated to limit salinity discharge levels to a maximum salinity of 44 ppt. The proposed pond operation is based on modeling data and may be modified by adaptive management based on results of wildlife and water quality monitoring data.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The A-18 salt pond is located in the South San Francisco Bay Estuary in the City of San Jose, south of Coyote Slough and east of Artesian Slough; APN 015-32-042, -043

COUNCIL DISTRICT: 4

APPLICANT CONTACT INFORMATION:

Kirsten Struve, City of San Jose, Environmental Services Department, 777 N. First Street, Ste. 300
San Jose, CA 95112, (408) 277-4512,

Robert Douglass, Cargill Salt, 7220 Central Avenue Newark, California 94560, (510) 790-8156

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release

of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS** – The project will not have an impact on this resource, therefore no mitigation is required.
- II. AGRICULTURE RESOURCES** – The project will not have an impact on this resource, therefore no mitigation is required. While the project site is zoned for agricultural use, it has been used for commercial salt production and is no longer suitable for agricultural purposes. The project is not subject to a Williamson Act contract.
- III. AIR QUALITY** – Temporary air quality impacts may occur due to the potential generation of objectionable odors. Objectionable odors generated from salt pond environments may be attributed to two primary sources: exposed pond bottom sediments and biomass accumulation in stagnant waters. Pond bottom sediments may be exposed to the air if a pond is allowed to dry or if depths are very low. These sediments generate odors due to the exposure of anaerobic sediments and decaying algae. Pond waters generate odor when algae and other organisms in the pond accumulate in stagnant areas of the pond. As the algae decompose, hydrogen sulfide gas is produced, generating a strong sulfuric odor.

Mitigation Measures. The project incorporates measures to prevent objectionable odors from occurring, including continuous circulation of bay waters through the pond. Pond conditions creating odors, including stagnant waters and exposed pond bottom sediments, will be avoided. Objectionable odors created by the project are not expected to occur. However, in order to monitor odor conditions at the pond and identify when odors are generated due to unforeseen circumstances, hydrogen sulfide monitor cards can be placed at the periphery of the pond. Past experience with these cards has proved them to be useful, though not necessarily definitive. These cards turn black when exposed to hydrogen sulfide gas. If hydrogen sulfide gas odors result from biomass decaying in stagnant waters or depths fall to such a level as to expose pond bottoms, circulation will be increased through the pond or water levels raised by closing the outlet gate to eliminate the pond conditions that create objectionable odors.

- IV. BIOLOGICAL RESOURCES** –The evaluation of significant impacts focuses on several target species representative of various groups. The results of the significance evaluation indicate that none of the potentially occurring listed or candidate species will be subjected to potentially significant impacts under the proposed project. The primary habitat values of Pond A18 and the receiving waters are as roosting and foraging grounds for avian and aquatic species. Pond A18 and the receiving waters will continue to provide these habitat values under the proposed project. Species that utilize nearby marsh and upland habitats, such as the salt marsh harvest mouse, California clapper rail, northern harrier and white-tailed kite, will not be subjected to any change in habitat value in their respective habitats. The upstream migration of adult steelhead trout and chinook salmon to their spawning grounds in upper Coyote Slough will not be impaired. In addition, adverse impacts to downstream migrating juvenile salmon are expected to be extremely small. Very few, if any, juvenile salmonids have the possibility of entrainment in salt pond intake structures and waters from this project. Impacts to Bay shrimp were determined to be short-term. No significant change in shrimp habitat area for the juvenile

salinity preference range (May-August) or the adult salinity preference range (September-February) was found under continuous circulation conditions. No fill or loss of wetland habitat will occur under the proposed project.

Mitigation Measures. In order to ensure that the discharge and pond water parameters are within the range predicted by the hydrodynamic computer modeling and potential impacts to special status or sensitive species remain less than significant, water quality conditions will be monitored according to a plan approved by the RWQCB. Monitoring of Pond A18 water quality will ensure that any unforeseen changes in pond conditions and discharge are addressed through either closure of tidal gates or altering the release scenario to a north initial release as described in the project description. Waterbird use of the pond will continue to be monitored to provide data on waterbird use as it relates to changing salinity conditions within the pond and monitor for signs of avian botulism. Avian botulism will be avoided by maintaining water levels or increasing circulation through ponds, keeping salinity at or above sea water concentrations, and disposing of carcasses.

- V. **CULTURAL RESOURCES** – The project will not have an impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have an impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have an impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will operate under permit conditions set forth and approved by the Regional Water Quality Board. Reduction in impacts will be implemented through compliance with RWQCB permit conditions. Hydrodynamic modeling of the Initial Release Period and Continuous Circulation Period was used to analyze the potential concentrations of dissolved oxygen, chemical contaminants, sediments, heavy metals and salinity in the pond discharge and receiving waters. The results of this evaluation indicate that none of these factors are expected to exceed water quality objectives.

MITIGATION MEASURES: The project will operate under permit conditions set forth and approved by the Regional Water Quality Control Board, including a water quality monitoring plan for the Initial Release Period and Continuous Circulation Period. Water quality elements to be monitored include: dissolved oxygen, pH, salinity, metals and temperature. Prior to and during the Initial Release Period, water quality will be monitored in Pond A18 to determine the dissolved oxygen (D.O.), pH, temperature, and salinity of the water to be discharged. Measurements will be made in the receiving waters (i.e., Artesian Slough and/or Coyote Slough) to determine the D.O., pH, temperature, and salinity of these waters when the Initial Release is occurring. Sediment samples will be collected from the receiving water bodies at three time points (i.e., prior to, during, and after the Initial Release Period) to determine benthic community structure. During Continuous Circulation, water quality will be monitored in the receiving waters on a monthly basis from May through October, upstream and downstream from the discharge point. Water quality will be monitored at the discharge point on a continuous basis (using a continuous monitoring device) from May through October. Metals will be monitored on an annual basis at the discharge point.

- IX. **LAND USE AND PLANNING** – The project will not have an impact on this resource,

therefore no mitigation is required.

- X. MINERAL RESOURCES** – The commercial production of salt in Pond A18 will cease whether or not this project occurs due to the transformation of nearby salt ponds under the USFWS ISP and disengagement of Pond A18 from the salt production system. The project will not have an impact on this resource, therefore no mitigation is required.
- XI. NOISE** – The project will not have an impact on this resource, therefore no mitigation is required.
- XII. POPULATION AND HOUSING** – The project will not have an impact on this resource, therefore no mitigation is required.
- XIII. PUBLIC SERVICES** – The project will not have an impact on this resource, therefore no mitigation is required.
- XIV. RECREATION** – The project will not have an impact on this resource, therefore no mitigation is required.
- XV. TRANSPORTATION / TRAFFIC** – The project will not have an impact on this resource, therefore no mitigation is required.
- XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have an impact on this resource, therefore no mitigation is required.
- XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – Less than significant impacts are anticipated. The project will result in changes in pond hydrology and salinity that will result in wildlife habitat changes with positive impacts for some wildlife species and negative impacts for others. No short or long-term significant impacts are expected. The project will not affect the number or restrict the range of any endangered plant or animal and will not affect any examples of California history or prehistory.

The cumulative impacts of the project are considered positive for fish and wildlife species. Adjacent U.S. Fish and Wildlife Service ISP ponds A17 and A16 will be operated in a manner similar to the A18 Pond Management Plan whereby bay water will be circulated through the ponds and discharged in to the Bay. The remainder of the ISP ponds in the South Bay may be restored by the Service to tidal marsh habitat or maintained as open water habitat. The A18 management project will contribute to the open water habitat available in the vicinity of the U.S. Fish and Wildlife Service South Bay ISP ponds.

The project is not expected to generate any adverse environmental impacts which might affect humans in the vicinity.

PUBLIC REVIEW PERIOD

Before **5:00 p.m. on January 10, 2005**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: December 10, 2004

Deputy

Adopted on: _____

Deputy

MND/AD 12/08/04